

ORDINANCE NO. _____, SERIES 2007

**AN ORDINANCE RE-ENACTING AND AMENDING
CHAPTER 162 OF THE LOUISVILLE METRO CODE
OF ORDINANCES (LMCO) RELATING TO
OVERLAY DISTRICTS.**

Sponsored By: Councilmen Downard and Blackwell

**BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE
LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL)
AS FOLLOWS:**

SECTION I: LMCO Chapter 162 is hereby re-enacted and amended as follows:

DOWNTOWN OVERLAY DISTRICTS

§ 162.01 ~~CREATION AND BOUNDARIES. DEFINITIONS.~~

~~(A) Pursuant to KRS 82.660-82.670, the following overlay districts are
created in Downtown:~~

~~(1) Core-Broadway Overlay District~~

~~(2) Main-Market Overlay District~~

~~(3) East-West Downtown Overlay District~~

~~(4) Waterfront View Overlay District~~

~~(B) The boundaries of the districts shall be as described in Exhibit A
and as illustrated in Exhibit B, both of said exhibits attached to Ord. 233-1992.~~

~~(C) The distinctive characteristics of each district are described in
Exhibit C, attached to Ord. No. 233-1992.~~

As used in this chapter, unless the context otherwise requires:

(A) Alteration means a change to any part or to the whole of a structure
that is not ordinary repairs;

(B) Authority means the Louisville/Jefferson County Development Authority established pursuant to Ordinance No. 365, Series 1991;

(B) Building means a structure;

(C) Committee means the Downtown Development Review Overlay District Committee;

(D) Contributing Historical Structure means a structure located within a National Register Historic District and which has not been determined by the United States Secretary of the Interior to be noncontributing or a structure which is listed on the National Register of Historic Places or which is eligible for such status.

(E) Demolition means the destruction in whole or in part of a structure;

(F) District means the Downtown Development Review Overlay District established by this Ordinance.

(G) Director means the Director of the Division of Planning and Design Services;

(H) Division means the Division of Planning and Design Services or its successor;

(I) Principles means the statements based on the Louisville Downtown Development Plan that reflects the Metro Government's urban design goals and policies for the downtown;

(J) District guidelines means the statements of specific standards to implement a Principle as that Principle should be applied in light of the distinctive

characteristics of a particular development review overlay district of the downtown;

(K) Development review guidelines or Guidelines means the District Guidelines for each overlay district;

(L) Major structural change means structural alterations and structural repairs made within any 12 month period costing in excess of 50% of the physical value of the structure, as determined by comparison of the extent/value of the alterations involved and the replacement value of the structure at the time the plans for the alteration are approved, using the Building Officials Conference of America (BOCA) chart for construction cost;

(M) New construction means the erection of the whole or any part of a structure;

(N) Staff means the Urban Design Administrator in the Division of Planning and Design Services, and such other person or persons delegated responsibility by the Director to administer the provisions of this Ordinance.

(O) Ordinary repairs means nonstructural reconstruction or renewal of any part of an existing building for the purpose of its maintenance or decoration, which shall include, but not be limited to, the replacement or installation of nonstructural components of the building, such as the roofing, siding, windows, storm windows, insulation, drywall or lath and plaster, or any other replacement, in kind, that does not alter the structural integrity, alter the occupancy or use of the building, or affect by rearrangement, exitways and means of egress;

(P) Structure means any man-made object having an attachment to the ground, or to something having an attachment to, or location upon, the ground.

§ 162.02 PRINCIPLES AND GUIDELINES. CREATION AND BOUNDARIES.

(A) Pursuant to KRS 82.660-82.670, the following overlay districts are created in Downtown:

(1) Core-Broadway Overlay District

(2) Main-Market Overlay District

(3) East-West Downtown Overlay District

(4) Waterfront View Overlay District

(B) The boundaries of the districts shall be as described in Exhibit A and as illustrated in Exhibit B, both of said exhibits attached to Ord. 233-1992.

(C) The distinctive characteristics of each district are described in Exhibit C, attached to Ord. No. 233-1992.

(D) Additional Downtown districts may be identified in accordance with the provisions of KRS 82.660-82.670.

~~(A) Upon the effective date of this Ordinance, within the overlay districts, no person shall commence any development activity as defined in § 162.07 without obtaining a permit issued, without cost, pursuant to the procedures set forth in § 162.08 certifying compliance with the applicable overlay district development review guidelines.~~

~~(B) The Development Review Guidelines, attached to Ord. 233-1992 as Exhibit D, as amended on the effective date of this Ordinance and~~

~~incorporated herein by reference, are enacted. The Development Review Guidelines are not intended to discourage development or to dictate architectural design or style, but to encourage such development that contributes to the overall urban design quality of the downtown and of each district. These Development Review Guidelines and the distinctive characteristics for each overlay district shall be the basis for evaluating applications for development proposals as applicable within each district as follows:~~

~~(1) All Principles, as defined in § 162.03, which are part of the Development Review Guidelines for a particular Overlay District, must be satisfied before an overlay district permit may be issued.~~

~~(2) In order to demonstrate conformance with a particular Principle for an Overlay District and compliance with the Development Review Guidelines, a development application need not satisfy all District guidelines, as defined in § 162.03, which relate to that Principle if a determination is made pursuant to the provisions of subsection (B)(3) below that one or more District Guidelines are not applicable.~~

~~(3) The Urban Design Administrator or Committee, as authorized respectively under § 162.08(E) and (F), may determine that a District Guideline which relates to a Principle for an Overlay District should not be applied in evaluating whether a development application conforms to the Principle upon making findings of fact pursuant to § 162.08 for each such District Guideline that:~~

~~(a) — The particular location characteristics of the site or existing structure, make the District Guidelines inappropriate for purposes of determining conformance with the particular Principle in the Overlay District; or~~

~~(b) — The applicant has demonstrated that the application addresses distinctive characteristics of the Overlay District not reflected in the District Guidelines which are applicable to the particular Principle and which provide an additional or alternative basis for determining conformance with that Principle in the Overlay District.~~

~~(4) — Upon making a determination that a development application concerns a site which is located in sufficient proximity to one or more other Overlay Districts and that it shares some of the characteristics of such nearby Overlay District or Districts, the Urban Design administrator or the Downtown Development Review Overlay District Committee, as authorized respectively under § 162.08(E) and (F), may consider the District Guidelines applicable appropriate, in determining conformance with that same Principle in the Overlay District in which the proposed development is located. However, a development application shall not be required to satisfy all of the District Guidelines for that same Principle in the other Overlay Districts in order to demonstrate compliance with the Principle.~~

~~(5) If a development application involves a phased project, the Urban Design Administrator or the Committee, as authorized respectively under § 162.08(E) and (F), may, as a condition of approval of an overlay district permit for the first phase or phases, require landscaping, fencing, lighting and such other interim treatments as the Administrator or the Committee may determine appropriate for the undeveloped portion of the phased project.~~

~~(C) It shall be a condition precedent to obtaining any permit for any development activity within an overlay district that the person has obtained an overlay district permit pursuant to this section. Permits shall be issued only where it is determined, pursuant to the procedures established by this chapter, that the proposed development activity is in compliance with the Development Review Guidelines for the overlay district. In order to ensure that this Ordinance continues to further the goals and objectives of the Louisville Downtown Development Plan, the Committee shall review the Guidelines and recommend to the Metro Council any amendments necessary.~~

§ 162.03 PRINCIPLES AND GUIDELINES. DEFINITIONS.

~~As used in this chapter, unless the context otherwise requires:~~

~~(A) Alteration means a change to any part or to the whole of a structure that is not ordinary repairs;~~

~~(B) Authority means the Louisville/Jefferson County Development Authority established pursuant to Ordinance No. 365, Series 1991;~~

~~(C) Building means a structure;~~

~~(D) — Committee means the Downtown Development Review Overlay District Committee;~~

~~(E) — Executive director means the executive Director of the Louisville/Jefferson County Development Authority;~~

~~(F) — Principles means the statements based on the Louisville Downtown Development Plan that reflects the Metro Government's urban design goals and policies for the downtown;~~

~~(G) — District guidelines means the statements of specific standards to implement a Principle as that Principle should be applied in light of the distinctive characteristics of a particular development review overlay district of the downtown;~~

~~(H) — Development review guidelines or Guidelines means the combination of Principle and District Guidelines for each overlay district;~~

~~(I) — Major structural change means structural alterations and structural repairs made within any 12 month period costing in excess of 50% of the physical value of the structure, as determined by comparison of the extent/value of the alterations involved and the replacement value of the structure at the time the plans for the alteration are approved, using the Building Officials Conference of America (BOCA) chart for construction cost;~~

~~(J) — New construction means the erection of the whole or any part of a structure;~~

~~(K) — Ordinary repairs means nonstructural reconstruction or renewal of any part of an existing building for the purpose of its maintenance or decoration;~~

~~which shall include, but not be limited to, the replacement or installation of nonstructural components of the building, such as the roofing, siding, windows, storm windows, insulation, drywall or lath and plaster, or any other replacement, in kind, that does not alter the structural integrity, alter the occupancy or use of the building, or affect by rearrangement, exitways and means of egress;~~

~~(L) Structure means any man-made object having an attachment to the ground, or to something having an attachment to, or location upon, the ground.~~

(A) Upon the effective date of this Ordinance, within the Districts, no person shall commence any development activity as defined in § 162.07 of this Ordinance without obtaining a Permit issued, without cost, pursuant to the procedures set forth in § 162.08 herein certifying compliance with the applicable overlay district development review guidelines established pursuant to this Ordinance.

(B) The Development Review Guidelines, attached to Ord. 233-1992 as Exhibit D, as amended on the effective date of this Chapter and incorporated herein by reference, are enacted, and may be amended from time to time by the Committee in accordance with the provisions of this Chapter. The Development Review Guidelines are not intended to discourage development or to dictate architectural design or style, but to encourage such development that contributes to the overall urban design quality of the downtown and of each district. These Development Review Guidelines and the distinctive characteristics for each

overlay district shall be the basis for evaluating applications for development proposals as applicable within each district as follows:

(1) All Principles, as defined in § 162.03 01, which are part of the Development Review Guidelines for a particular Overlay District, must be satisfied before a Permit may be issued.

(2) In order to demonstrate compliance with the Development Review Guidelines, a development application need not satisfy all District Guidelines, as defined in § 162.01, if a determination is made pursuant to the provisions of subsection (B)(3) below that one or more District Guidelines are not applicable.

(3) The Urban Design Administrator or Committee, as authorized respectively under § 162.06, may determine that a District Guideline should not be applied in evaluating a development application upon making findings of fact pursuant to § 162.06 for each such District Guideline that:

(a) The particular location characteristics of the site or existing structure, make the District Guidelines inappropriate for purposes of reviewing the application; or

(b) The applicant has demonstrated that the application addresses distinctive characteristics of the Overlay District not reflected in the District Guidelines which are applicable and which provide an additional or alternative basis for determining conformance with-the Overlay District.

(4) Upon making a determination that a development application concerns a site which is located in sufficient proximity to one or more other Overlay Districts and that it shares some of the characteristics of such nearby Overlay District or Districts, the Urban Design administrator or the Downtown Development Review Overlay District Committee, as authorized respectively under § 162.05 and § 162.06, may consider the applicable District Guidelines. However, a development application shall not be required to satisfy all of the District Guidelines in the other Overlay Districts in order to demonstrate compliance.

(5) If a development application involves a phased project, the Urban Design Administrator or the Committee, as authorized respectively under § 162.05 and § 162.06, may, as a condition of approval of a Permit for the first phase or phases, require landscaping, fencing, lighting and such other interim treatments as the Administrator or the Committee may determine appropriate for the undeveloped portion of the phased project.

(C) The Guidelines are intended to promote compatibility of new development with existing land use and design features, to enhance the Districts' visual quality, to preserve the Districts' commercial character with a pedestrian-friendly environment and to strengthen the economic vitality of the Districts by encouraging new investment and further business, residential and commercial development in appropriate locations within the Districts.

(D) The application of the Guidelines is intended to provide public review in the public interest of the design elements of a proposed development

within the District and of the community impact of a proposed demolition of a Contributing Historical Structure within the District. Accordingly, public participation should be encouraged in the review process.

(E) The Guidelines are not intended to discourage development but to encourage development which is innovative and aesthetically pleasing in design. A development proposal that does not conform to one or more specific Guidelines may be approved if it is determined that the proposal is in conformance with the intent of the Guidelines considered as a whole.

(F) It shall be a condition precedent to obtaining any permit for any development activity within an overlay district that the person has obtained a Permit pursuant to this section. Permits shall be issued only where it is determined, pursuant to the procedures established by this chapter, that the proposed development activity is in compliance with the Guidelines for the overlay district. In order to ensure that this Ordinance continues to further the goals and objectives of the Louisville Downtown Development Plan, the Committee shall review the Guidelines and recommend to the Metro Council any amendments necessary.

(G) Demolition. No application to demolish any Contributing Historical Structure or Structure more than 50 years old shall be approved by the Urban Design Administrator unless the applicant demonstrates to the satisfaction of the Urban Design Administrator and the Louisville Metro Historic Preservation Officer:

(1) That the rehabilitation of the Structure or construction of a new Structure will have a greater positive impact upon the District's economic vitality and appearance than the preservation of the Structure proposed to be demolished and that the rehabilitation of the Structure or the construction of the new Structure would not be possible or economically feasible without the demolition of the Structure proposed to be demolished; or

(2) That the applicant cannot obtain a reasonable economic return from the property or Structure unless the Contributing Historical Structure or Structure more than 50 years old is demolished in accordance with the application.

§ 162.04 ADVISORY COMMITTEE CREATION. ~~ADMINISTRATION AND IMPLEMENTATION.~~

~~The responsibility for administering and implementing the Guidelines is delegated to the Louisville Metro Development Authority, whose staff and Executive Director shall have the following duties and responsibilities pursuant to this Ordinance:~~

~~(A) Urban Design Administrator. The duties of the Urban Design Administrator shall be to:~~

~~(1) Classify all development activity in accordance with § 162.07 of this chapter as: (a) exempt; (b) expedited, or (c) nonexpedited;~~

~~(2) Coordinate review of permit applications with the Departments of Public Works, Inspections, Permits and Licenses and other agencies, Commissions or boards;~~

~~(3) Lead Authority staff review of expedited development applications;~~

~~(4) Prepare, pursuant to the procedures set forth in § 162.08, final findings of fact and conclusion to support his decision on expedited development applications to issue an overlay district permit, issue the permit with conditions, or deny the permit; and~~

~~(5) Serve as staff to the Committee in its consideration of applications classified as nonexpedited.~~

~~(B) Executive Director. The duties of the Executive Director shall be to review the decisions of the Urban Design Administrator and the Committee as provided in § 162.08(J) of this chapter. The Executive Director, whenever the Urban Design Administrator is unable to perform his duties and responsibilities under this chapter, may assign the duties and responsibilities of the Urban Design Administrator to another employee or contractor of the Authority.~~

(A) There is created a Committee, to be known as the Downtown Development Review Overlay District Committee. The duties of the Committee shall be as outlined in §162.05.

(B) The Committee shall consist of a member of the Landmarks Commission, the Director of the Louisville Metro Planning Commission, a member of the Metro Council or an alternate member who shall attend meetings

of the Committee when the member of the Metro Council is unable to attend appointed by the President of the Metro Council, and the following members appointed by the Mayor, with the approval of the Metro Council:

(1) One architect.

(2) One architect or one landscape architect.

(3) One member of the Mayor's Committee on Public Amenities.

(4) Five members who shall be downtown property owners,

downtown business persons or downtown residents, provided that at least one of whom shall be a representative of The Louisville Central Area Board of Directors and at least one of whom shall be a representative of the Board of the Downtown Development Corporation, and at least one of whom shall be a downtown resident.

(C) All members appointed by the Mayor shall be residents of the county or owners of properties or businesses in downtown and shall serve for a term of three years, or until their successors are appointed, except that two members shall serve an initial term of one year, three members shall serve an initial term of two years, and three members shall serve an initial term of three years. Members shall serve at the pleasure of the Mayor. Any vacancy shall be filled in the same manner as the original appointment.

§ 162.05 ~~ADVISORY COMMITTEE CREATION.~~ COMMITTEE DUTIES.

(A) The duties and responsibilities of the Committee shall be as follows:

(1) Meet with applicants for nonexpedited development projects to review their applications; and

(2) Prepare, pursuant to the procedures set forth in § 162.08 05, final findings of fact and conclusions on nonexpedited development applications to issue a Permit, issue the Permit with conditions, or deny the Permit; and

(3) Review decisions of the Urban Design Administrator on expedited development applications upon request of the applicant pursuant to § 162.08(E) of this chapter; and

(4) Recommend to the Metro Council amendments to the Guidelines as provided in § 162.03 of this chapter based on experience in reviewing applications and the need to preserve the distinctive characteristics of the Districts.

(B) The Committee shall establish a schedule of regular meetings and may hold special meetings upon the call of the Chair.

(C) One member of the Committee shall be elected by a majority of the Committee as the Chair and he shall preside at all meetings of the Committee. The Committee may elect a Vice-Chair to preside at meetings when the Chair is absent. The Chair shall serve for a one-year term and shall be eligible for re-election.

(D) A quorum of the Committee shall be a majority of the members of the Committee. The concurring vote of a majority of the members present shall be necessary to take action on a Permit application.

(D) No member of the Committee may participate in the hearing or disposition of any matter in which that member has any conflict of interest, as defined by Chapter 21 of this Code of Ordinances.

(E) The Committee shall adopt policies and procedures for the conduct of its meetings, the processing of applications and for any other purposes considered necessary for its proper functioning.

~~(A) There is created a Committee, to be known as the Downtown Development Review Overlay District Committee. The Committee shall consist of a member of the Landmarks Commission, the Director of the Louisville Metro Planning Commission, a member of the Metro Council or an alternate member who shall attend meetings of the Committee when the member of the Metro Council is unable to attend appointed by the President of the Metro Council, and the following members appointed by the Mayor, with the approval of the Metro Council:~~

~~(1) One architect.~~

~~(2) One architect or one landscape architect.~~

~~(3) One member of the Mayor's Committee on Public Amenities.~~

~~(4) Five members who shall be downtown property owners, downtown business persons or downtown residents, provided that at least one of whom shall be a representative of The Louisville Central Area Board of Directors and at least one of whom shall be a representative of the Board of the Downtown Development Corporation, and at least one of whom shall be a downtown resident.~~

~~In addition, the Director of the Department of Inspections, Permits and Licenses shall serve on the Committee as an ex-officio nonvoting member.~~

~~(B) All members appointed by the Mayor shall be residents of the county or owners of properties or businesses in downtown and shall serve for a term of three years, or until their successors are appointed, except that two members shall serve an initial term of one year, three members shall serve an initial term of two years, and three members shall serve an initial term of three years. Members shall serve at the pleasure of the Mayor. Any vacancy shall be filled in the same manner as the original appointment.~~

§ 162.06 ~~ADVISORY COMMITTEE DUTIES.~~ ADMINISTRATION AND IMPLEMENTATION.

The responsibility for administering and implementing the Guidelines is delegated to the Division of Planning and Design Services, whose Urban Design Administrator, staff and Director shall have the following duties and responsibilities pursuant to this Chapter:

(A) Urban Design Administrator. The duties of the Urban Design Administrator shall be to:

(1) Classify all development activity in accordance with § 162.07 of this chapter as: (a) exempt; (b) expedited, or (c) nonexpedited;

(2) Coordinate review of permit applications with the Departments of Public Works and Assets, the Department of Code and Regulations, and other agencies, Commissions or boards;

(3) Lead staff review of expedited development applications;

(4) Prepare, pursuant to the procedures set forth in § 162.08, final findings of fact and conclusions to support his decision on expedited development applications to issue a Permit, issue the Permit with conditions, or deny the Permit; and

(5) Serve as staff to the Committee in its consideration of applications classified as nonexpedited and those expedited applications appealed to the Committee pursuant to this Chapter.

(B) Director. The duties of the Director shall be to review the decisions of the Urban Design Administrator and the Committee as provided in § 162.08(K) of this chapter. The Director, whenever the Urban Design Administrator is unable to perform his duties and responsibilities under this chapter, may assign the duties and responsibilities of the Urban Design Administrator to another employee or contractor of the Division of Planning and Design Services.

~~(A) The duties and responsibilities of the Committee shall be to:~~

~~(1) Meet with applicants for nonexpedited development projects to review their applications; and~~

~~(2) Prepare, pursuant to the procedures set forth in § 162.08, final findings of fact and conclusion on nonexpedited development applications to issue an overlay district permit, issue the permit with conditions, or deny the permit; and~~

~~(3) Review decisions of the Urban Design Administrator on expedited development applications upon request of the applicant pursuant to § 162.08(E) of this chapter; and~~

~~(4) Recommend to the Metro Council amendments to the Guidelines as provided in § 162.02(C) of this chapter.~~

~~(B) The Committee shall meet at least twice each month.~~

~~(C) A quorum of the Committee shall be a majority of the members of the Committee. The concurring vote of a majority of the members present shall be necessary to make a decision on an overlay district permit application.~~

~~(D) No member of the Committee may participate in the hearing or disposition of any matter in which that member has any conflict of interest.~~

~~(E) The Committee shall adopt policies and procedures for the conduct of its meetings, the processing of applications and for any other purposes considered necessary for its proper functioning.~~

§ 162.07 EXEMPT ACTIVITIES AND CLASSIFICATION OF **APPLICATIONS.**

(A) The following development activities shall be exempt from review under the ~~Development Review~~ Guidelines and the provisions of this Chapter:

- (1) Ordinary repairs;
- (2) Removal of existing signage without replacement;
- (3) Temporary signage installed for a period of less than two months, during which time an application for permanent signage is pending under this Chapter ~~or structures;~~
- (4) Emergency repairs ordered by a Metro Government Building Code enforcement official in order to protect health and safety;

(5) Alterations or major structural change only to the interior of the structure;

(6) Development activity which falls within the jurisdiction of the Louisville/Jefferson County Landmarks Commission.

(7) Demolition of accessory structures

(8) Temporary structures

(9) Maintenance of existing signage advertising an on-site business, including but not limited to rewording or replacing sign panels

(B) All development activity within the overlay districts established by this chapter, except for exempt activities described in subsection (A) of this section shall be classified pursuant to the procedures set forth in § 162.08 of this chapter as either requiring expedited or nonexpedited review under the Guidelines, as follows:

(1) The following development activities shall be subject to expedited review:

(a) Landscaping;

(b) Sidewalk/Street Paving; Lighting; Streetscape Furnishings; Banners;

(c) ~~Signage~~ New awnings, business and other signs, and replacement of structural elements of existing signs; and

(d) Exterior alterations which are not major structural changes.

(e) An addition to a Structure used for commercial purposes which is not visible from the public street and which does not increase the total square footage of floor space in the Structure by more than 10%.

(2) All other development activities shall be subject to nonexpedited review.~~The following development activities shall be subject to nonexpedited review:~~

~~(a) New construction;~~

~~(b) Major structural change; and~~

~~(c) Parking facility development or redevelopment.~~

§ 162.08 PERMIT REQUIREMENTS AND APPEAL.

(A) No permit or certificate of occupancy shall be issued by any Metro Government agency for any development activity within an ~~overlay~~ District unless an ~~overlay district~~ Permit for such development activity has been obtained pursuant to this Chapter.

(B) An application for development within an overlay district shall be submitted to the Division of Planning and Design Services ~~Department of Inspections, Permits and Licenses~~ on a form provided by the Department ~~prepared in collaboration with the Authority~~. The application shall include at least the following information, unless waived pursuant to subsection (C) of this section:

(1) A site plan, drawn to an appropriate scale, photographs or other presentation media showing the proposed development in the context of property lines, adjacent structures, trees, streets, sidewalks, and the like.

(2) Plans, elevations and other drawings, drawn to appropriate scale, as may be necessary to fully explain all proposed Structures or alterations to Structures.

(3) Details of urban design elements, off-street parking, landscaping, fencing or walls, signage, streetscape and other aspects as may be necessary to fully present the proposed development.

(C) Applicants may seek review of a development proposal prior to making formal application pursuant to subsection (B) of this section. The preliminary review shall be conducted by the Urban Design Administrator to determine if the minimal requirements for acceptance of the application have been met. The Urban Design Administrator may agree to waive certain of the requirements set out in subsection (B) of this section if he determines that such requirements are not necessary for review of the application pursuant to this chapter. An applicant whose proposal has been determined to require nonexpedited approval, may seek a preliminary review of his development proposal by the Committee.

(D) After determining that an application is complete, ~~Within two working days of receipt of an application determined to be complete,~~ the Urban Design Administrator, shall classify the development proposal as either exempt,

or not exempt, requiring either expedited or nonexpedited approval. The Urban Design Administrator may classify an application as requiring nonexpedited review even if the proposed development activity meets the definition for expedited review if he determines that the application would be more appropriately considered by the Committee.

(E) A permit application classified as requiring expedited approval shall be reviewed by the Urban Design Administrator who shall, ~~within three working days after classification,~~ prepare a written decision supported by a finding of fact which shall approve the overlay district permit, approve the permit with conditions, or deny the permit. An applicant, within ~~five~~ ten days ~~of receipt~~ of the date of the decision of the Urban Design Administrator on a proposal requiring expedited review, may request appeal of the application to the Committee. The application shall be reviewed as provided in paragraph (F) of this section for applications classified as requiring nonexpedited approval, except that the Committee shall consider the application at its next regularly scheduled meeting following the request, provided that such request is made not later than four working days prior to the meeting.

(F) A permit application classified as requiring a nonexpedited approval shall be reviewed by the Committee ~~within 14 days of classification.~~ The permit application shall be reviewed by the Urban Design Administrator in accordance with the Guidelines and forwarded to the Committee with the Urban Design Administrator's written recommendation to either approve the permit, approve the permit with conditions, or to deny the permit.

(G) Where an application requiring non-expedited review will also require a Category 3 review as defined by the Land Development Code, the Committee shall provide a forum for the public hearing component of that review in accordance with the following procedures.

(1) Notice for the Category 3 review shall be sent in accordance with the requirements of the Land Development Code.

(2) The Planning Commission shall designate a hearing officer in accordance with that body's Policies and Procedures who shall attend the Committee meeting at which the review will take place.

(3) A staff report outlining the issues involved in the Category 3 review shall be presented by appropriate staff member in the Division of Planning and Design Services in addition to the staff report presented by the Urban Design Administrator.

(4) Final action on the Category 3 review shall be taken at the next regularly scheduled meeting of the Planning Commission or appropriate committee thereof.

(G H) Notice. The applicant shall be sent, by first class mail, written notice of the date, time and location of the meeting of the Committee at which his application shall be considered. Notice of the application, and of the date, time and location of the meeting of the Committee shall also be sent by first class mail to the owners of record of every first tier property, defined as those properties that touch the property which is the subject of the application at a point, along a border, or across a street, alley or other right-of-way, and to any business

associations or neighborhood associations which have requested in writing to receive such notices. The notice shall be sent no later than ten days prior to the date of the meeting, ~~unless such notice is waived by the applicant.~~ Notice procedures for applications involving a Category 3 component under Part G above shall be in accordance with the notice requirements for Category 3 reviews set forth in the Land Development Code.

(H ~~I~~) At the meeting scheduled to review the application ~~consider the applicant's permit request,~~ the Committee shall first hear a description of the proposed development activity and receive preliminary comments and a recommendation from the Urban Design Administrator Staff, which shall indicate which of the Guidelines apply to the proposed development activity. Following the Urban Design Administrator's staff presentation, the applicant shall present such information as he chooses for the Committee's consideration. The Committee shall receive comments from other interested parties in person or in writing. ~~and at the discretion of the Chairman may permit others to testify.~~ ~~consider the written recommendation of the Urban Design Administrator and such other information as the applicant chooses to present for the Committee's consideration.~~

(~~I~~ J) The Committee shall, by majority vote of the members present, make a decision, supported by a written finding of fact, which shall approve the permit, approve the permit with conditions, deny the permit, or defer consideration of the application until the next meeting of the Committee. Consideration of an application shall not be deferred more than one time. If the

Committee defers consideration of an application it shall state the reason for such deferral. Findings of fact made by the Committee shall be based on the information presented in each application and at each Committee meeting, and shall support the Committee's written conclusion.

(J K) The ~~Executive~~ Director shall review all decisions of the Urban Design Administrator and the Committee and may, within three business ~~working~~ days, refer any application back to the Urban Design Administrator or the Committee, as appropriate, if he determines the decision is not adequately supported by the findings of fact. ~~The Executive Director shall state in writing his objections to the decision.~~ The Committee shall consider and render a final decision upon the remanded application at its next regularly scheduled meeting.

(K L) The Urban Design Administrator, and the Committee shall, in their decision making capacities, ~~each~~ make written findings of fact based upon the information presented in each application and at each Committee meeting which support written conclusions that ~~the application demonstrates that the proposed~~ development activity is or is not in compliance with the Guidelines.

(L M) If, after an applicant has obtained an ~~overlay district~~ a Permit, the development proposal is amended, he shall submit the amended development proposal to the Urban Design Administrator who shall make a determination that the amendment has no significant impact or that the development proposal as amended requires additional review. Review of an amended proposal shall follow the same procedure as provided herein for an original application. Upon a determination by the Urban Design Administrator that the amended proposal

requires review, the previously issued ~~overlay-district~~ Permit shall be suspended pending the review of the amended development proposal.

(~~M~~ N) Any applicant who is denied a Permit shall have a right of appeal to the Board of Zoning Adjustment. The appeal from the written denial of the Permit shall be taken within 30 days of the date of such written denial.

§ 162.09 PERMIT AGREEMENT.

(A) The filing of an application to obtain a Permit pursuant to this Ordinance shall constitute an agreement by the applicant that he will undertake the development activity in conformity with the plans approved by the ~~overlay-district~~ Permit and that he will abide by any conditions imposed by a conditional approval of the ~~overlay-district~~ Permit. All conditions imposed by an ~~overlay-district~~ Permit shall be binding on the applicant, his successors, heirs or assigns, unless otherwise amended or released by the Committee or Urban Design Administrator. No certificate of occupancy shall be issued for any project undertaken pursuant to a Permit unless the work has complied with the conditions established by the Permit.

(B) All work performed pursuant to a Permit shall conform to the Permit and all conditions imposed thereby. It shall be the duty of the Division of Inspections, Permits and Licenses or the Department of Public Works and Assets, or their successors, as appropriate, to inspect from time to time any work performed pursuant to the permit to assure compliance. In the event work is performed not in accordance with the Permit, the appropriate designee of the

Division of Inspections, Permits and Licenses or the Department of Public Works and Assets shall issue a stop work order and all work shall cease. No person, firm or corporation shall undertake any work on the project as long as the stop work order shall continue in effect.

BARDSTOWN ROAD/BAXTER AVENUE CORRIDOR REVIEW OVERLAY DISTRICT

§ 162.20 DEFINITIONS.

As used in this Ordinance, unless the context otherwise requires:

(A) District means the Bardstown Road/Baxter Avenue Corridor Review Overlay District established by this Ordinance.

(B) Contributing Historical Structure means a structure located within a National Register Historic District and which has not been determined by the United States Secretary of Interior to be noncontributing or a structure which is listed on the National Register of Historic Places, or which is eligible for such designation.

(C) Guidelines mean the design guidelines established by § 162.29 ~~22~~ of this Ordinance.

(D) Structure means any man-made object having an attachment to the ground or to something having an attachment to the ground.

(E) Director means the Director of Planning and Design Services ~~the Department of Inspections, Permits and Licenses.~~

(F) Staff means the Urban Design Administrator in the Division of Planning and Design Services ~~Louisville Metro Development Authority~~ and such

other ~~the~~ person or persons delegated responsibility by the Director to administer the provisions of this Ordinance.

(G) Ordinary Repairs means nonstructural reconstruction or renewal of any part of a structure for the purpose of its maintenance.

(H) Demolition means the destruction in whole or in part of a Structure.

(I) Corridor means the portions of the public rights-of-way known as Bardstown Road and Baxter Avenue located within the District.

(J) Permit means a Bardstown Road/Baxter Avenue Corridor Review Overlay District Permit issued pursuant to this Ordinance.

§ 162.21 CREATION AND BOUNDARIES.

(A) Pursuant to KRS 82.660 through 82.670, the Bardstown Road/Baxter Avenue Corridor Review Overlay District is established.

(B) The boundaries of the District shall be as illustrated in Exhibit E, attached to Ord. 233-1992.

(C) The distinctive characteristics of the District are described in Exhibit F, attached to Ord. 233-1992.

§ 162.22 PRINCIPLES AND GUIDELINES.

(A) Upon the effective date of this Chapter Ordinance, within the District, no person shall commence any development activity as defined in § 162.26 of this Chapter Ordinance without obtaining a Permit issued, without cost, pursuant to the procedures set forth in § ~~162.27~~ of this Chapter Ordinance

certifying compliance with the applicable overlay district development review design guidelines established by § 162.29 of this Chapter Ordinance.

(B) The Design Review Guidelines, attached as Appendix B hereto, are enacted. The Guidelines may be updated from time to time upon a recommendation from the Committee and with the approval of the Metro Council. The Guidelines are not intended to discourage development or to dictate architectural style or design, but to encourage such development that contributes to the overall design quality of the District. These Guidelines and the distinctive characteristics for the District shall be the basis for evaluating new applications for development proposals with the District.

(C B) The Guidelines are intended to promote compatibility of new development with existing land use and design features, to enhance the District's visual quality, to preserve the District's commercial character with a pedestrian friendly environment and to strengthen the economic vitality of the District by encouraging new investment and further business and commercial development, in appropriate locations within the District.

(D C) The application of Guidelines is intended to provide public review in the public interest of the design elements of a proposed development within the District and of the community impact of a proposed demolition of a Contributing Historical Structure within the District. Accordingly, public participation shall be encouraged in the review process.

(E D) The Guidelines are not intended to discourage commercial development but to encourage such development which is innovative and

aesthetically pleasing in design. A development proposal that does not conform to one or more specific Guidelines may be approved if it is determined that the proposal is in conformance with the intent of the Guidelines considered as a whole.

(E) It shall be a condition precedent to obtaining any permit for any development activity within the District that the person has obtained a Permit pursuant to this Chapter Ordinance. Permits shall be issued only where it is determined, pursuant to the procedures established by this Chapter Ordinance, that the proposed development activity is in compliance with the Guidelines.

(G) Demolition. No application to demolish any Contributing Historical Structure or Structure more than 50 years old shall be approved by the Urban Design Administrator unless the applicant demonstrates to the satisfaction of the Urban Design Administrator and the Louisville Metro Historic Preservation Officer:

(1) That the rehabilitation of the Structure or construction of a new Structure will have a greater positive impact upon the District's economic vitality and appearance than the preservation of the Structure proposed to be demolished and that the rehabilitation of the Structure or the construction of the new Structure would not be possible or economically feasible without the demolition of the Structure proposed to be demolished; or

(2) That the applicant cannot obtain a reasonable economic return from the property or Structure unless the Contributing Historical

Structure or Structure more than 50 years old is demolished in accordance with the application.

§ 162.23 ~~ADMINISTRATION AND IMPLEMENTATION.~~ COMMITTEE CREATION.

~~The responsibility for administering and implementing this Ordinance is delegated to the Department of Inspections, Permits and Licenses, whose staff shall have the following duties and responsibilities pursuant to this Ordinance.~~

~~(A) Classify all development activity in accordance with § 162.26 of this Ordinance as (1) exempt, (2) expedited, or (3) nonexpedited.~~

~~(B) Coordinate review of permit applications with the Department of Public Works, Louisville Metro Development Authority and other agencies, Commissions or boards.~~

~~(C) Review expedited development applications.~~

~~(D) Provide support to the Committee.~~

(A) There is created the Bardstown Road/Baxter Avenue Corridor Review Overlay District Committee. The duties of the Committee shall be as stated in § 162.24. review all nonexpedited applications for development activity within the District and shall make recommendations thereupon to the Director concerning whether the proposed development activity complies with the Guidelines.

(B) The Committee shall consist of eight persons appointed as provided herein. All members of the Committee shall be residents of the county

and shall have knowledge of or experience in design review. The members shall be appointed by the Mayor, with the approval of the Metro Council, in such a manner so that:

(1) Two members shall be licensed architects, landscape architects or other licensed design professionals;

(2) Three members shall own, rent, operate or manage businesses located within the District or shall be members of an association of businesses which include businesses in the District;

(3) One member shall be a staff member or Commissioner of the Louisville Metro Planning Commission;

(4) One member shall be a representative of a neighborhood association which boundaries include or abut the District; and

(5) One member shall be a Commissioner of the Louisville/Jefferson County Historic Landmarks and Preservation Commission.

(C) A member shall serve for a two year term or until his successor qualifies and shall be eligible for reappointment in accordance with § 32.321. Four of the initial appointees shall be appointed for two year terms and four shall be appointed for three year terms. Subsequent appointments shall be for two year terms. A vacancy shall be filled in the same manner as the original appointment.

§ 162.24 ~~COMMITTEE CREATION.~~ COMMITTEE DUTIES.

~~(A) — There is created the Bardstown Road/Baxter Avenue Corridor Review Overlay District Committee. The Committee shall review all nonexpedited applications for development activity within the District and shall make recommendations thereupon to the Director concerning whether the proposed development activity complies with the Guidelines.~~

~~(B) — The Committee shall consist of eight persons appointed as provided herein. All members of the Committee shall be residents of the county and shall have knowledge of or experience in design review. The members shall be appointed by the Mayor, with the approval of the Metro Council, in such a manner so that:~~

~~(1) — Two members shall be licensed architects, landscape architects or other licensed design professionals;~~

~~(2) — Three members shall own, rent, operate or manage businesses located within the District or shall be members of an association of businesses which include businesses in the District;~~

~~(3) — One member shall be a staff member or Commissioner of the Louisville Metro Planning Commission;~~

~~(4) — One member shall be a representative of a neighborhood association which boundaries include or abut the District; and~~

~~(5) — One member shall be a staff member or Commissioner of the Louisville/Jefferson County Historic Landmarks and Preservation Commission.~~

~~(C) A member shall serve for a two year term or until his successor qualifies and shall be eligible for reappointment in accordance with § 32.321. Four of the initial appointees shall be appointed for two year terms and four shall be appointed for three year terms. Subsequent appointments shall be for two year terms. A vacancy shall be filled in the same manner as the original appointment.~~

(A) The duties and responsibilities of the Committee shall be as follows:

(1) Meet with applicants for nonexpedited development projects to review their applications;

(2) Prepare, pursuant to the procedures set forth in this Chapter, final findings of fact and conclusions on nonexpedited development applications to issue a Permit, issue the Permit with conditions, or deny the Permit.

(3) Recommend to the Metro Council, as provided for in this Chapter, amendments to the Guidelines based on experience in reviewing applications and the need to preserve the distinctive characteristics of the District.

(4) Review development activity referred to the Committee by the Board of Zoning Adjustment pursuant to § 162.29 of this Ordinance.

(5) Review decisions of the Urban Design Administrator on expedited development applications upon the request of the applicant pursuant to this Chapter.

(B) The Committee shall establish a schedule of regular meetings and may hold special meetings upon the call of the Chair.

(C) One member of the Committee shall be elected by a majority of the Committee as the Chair and he shall preside at all meetings of the Committee. The Committee may elect a Vice-Chair to preside at meetings when the Chair is absent. The Chair shall serve for a one year term and shall be eligible for re-election.

(D) A quorum of the Committee shall be a majority of the members of the Committee. The concurring vote of a majority of the members present shall be necessary to take action on Permit application.

(E) No member of the Committee may participate in the hearing or disposition of any matter in which that member has any conflict of interest, as defined by Chapter 21 of this Code of Ordinances.

(F) The Committee shall adopt policies and procedures for the conduct of its meetings, the processing of applications and for any other purposes considered necessary for its proper functioning.

§ 162.25 COMMITTEE ~~DUTIES.~~ ADMINISTRATION AND IMPLEMENTATION.

The responsibility for administering and implementing this Ordinance is delegated to the Division of Planning and Design Services, whose Urban Design Administrator, staff and Director shall have the following duties and responsibilities pursuant to this Ordinance.

(A) Urban Design Administrator. The duties of the Urban Design Administrator shall be to:

(1) Classify all development activity in accordance with § 162.26 of this Ordinance as (1) exempt, (2) expedited, or (3) nonexpedited.

(2) Coordinate review of permit applications with the Department of Public Works and Assets, and other Departments, Divisions, agencies, Commissions or boards.

(3) Lead staff review of expedited development applications.

(4) Serve as staff to the Committee in its consideration of applications classified as nonexpedited, and those expedited applications appealed to the Committee pursuant to this Chapter.

(5) Prepare, pursuant to the procedures set forth in this Chapter, written findings of fact and conclusions to support his decision on expedited development applications to issue a Permit, issue the Permit with conditions, or deny the Permit.

(B) Director. The duties of the Director shall be to review the decisions of the Urban Design Administrator and the Committee as provided for in this Chapter. The Director, whenever the Urban Design Administrator is unable to perform his duties and responsibilities under this Chapter, may assign the duties and responsibilities of the Urban Design Administrator to another employee or contractor of the Division of Planning and Design Services.

~~(A) The duties and responsibilities of the Committee shall be as follows:~~

~~(1) — Meet with applicants for nonexpedited development projects to review their applications;~~

~~(2) — Recommend, pursuant to § 162.27 of this Ordinance, to the Director that an application for a Permit be approved, approved with conditions or denied.~~

~~(3) — Recommend to the Director amendments to the Guidelines based on experience in reviewing applications and the need to preserve the distinctive characteristics of the District.~~

~~(4) — Review development activity referred to the Committee by the Board of Zoning Adjustment pursuant to § 162.30 of this Ordinance.~~

~~(B) — The Committee shall establish a schedule of regular meetings and may hold special meetings upon the call of the Chairman.~~

~~(C) — One member of the Committee shall be designated by the Director as the Chairman and he shall preside at all meetings of the Committee. The Committee may elect a vice chairman to preside at meetings when the Chairman is absent. The Chairman shall serve for a one year term and shall be eligible for reappointment.~~

~~(D) — A quorum of the Committee shall be a majority of the members of the Committee. The concurring vote of a majority of the members present shall be necessary to make a recommendation on an Overlay District Permit application.~~

~~(E) — No member of the Committee may participate in the hearing or disposition of any matter in which that member has any conflict of interest.~~

~~(F) The Committee shall adopt policies and procedures for the conduct of its meetings, the processing of applications and for any other purposes considered necessary for its proper functioning.~~

§ 162.26 EXEMPT ACTIVITIES AND CLASSIFICATION OF ACTIVITIES.

(A) The following development activities shall be exempt from review under the Guidelines and this Chapter ~~this Ordinance.~~

- (1) Ordinary repairs;
- (2) Removal of existing signage without replacement;
- (3) Emergency repairs ordered by a Metro Government Building Code enforcement official in order to protect health and safety;
- (4) Exterior alteration, addition or repair of a structure used as a single-family residence which does not increase the number of dwelling units in the structure or does not increase the total square footage of floor space in the structure by more than 20%;
- (5) Temporary signage, installed for a period of less than two months, during which time an application for permanent signage is pending under this Chapter ~~Ordinance~~;
- (6) Maintenance of existing signage advertising an on-site business, including but not limited to rewording or replacing sign panels;
- (7) Alterations or major structural change only to the interior of a Structure; ~~and~~
- (8) Demolition of accessory Structures;

(9) Temporary structures; and

(10) Development activity which falls within the jurisdiction of the Louisville/Jefferson County Landmarks Commission.

(B) All development activity within the District, except for exempt activities described in subsection (A) of this section shall be classified pursuant to the procedures set forth in § 162.27 of this Ordinance as either requiring expedited or nonexpedited review under the Guidelines, as follows:

(1) The following development activities shall be subject to expedited review:

(a) New awnings, business and other signs and replacement of structural elements of existing signs;

(b) An addition to a Structure used for commercial purposes which is not visible from the corridor and which does not increase the total square footage of floor space in the Structure by more than 10%;

(c) Landscaping;

(d) Sidewalk/street paving; lighting; streetscape furnishings; banners; and,

(e) Exterior alterations which are not major structural changes.

(2) All other development activities shall be subject to nonexpedited review.

§ 162.27 PERMIT REQUIREMENTS AND APPEAL.

(A) No permit or certificate of occupancy shall be issued by any Metro Government agency for any development activity within the District unless a Permit for such development activity has been obtained pursuant to this Chapter Ordinance.

(B) An application for development activity within the District shall be submitted to the Division of Planning and Design Services on a form provided by the Division ~~Department of Inspections, Permits & Licenses~~. The application shall include at least the following information, unless waived pursuant to subsection (C) of this section:

(1) A site plan, drawn to an appropriate scale, photographs or other presentation media showing the proposed development activity in the context of property lines, adjacent structures, trees, streets, sidewalks, and the like.

(2) Plans, elevations and other drawings, drawn to appropriate scale, as may be necessary to fully explain all proposed Structures or alterations to existing Structures.

(3) Details of urban design elements, off-street parking, landscaping, fencing or walls, signage, streetscape and other aspects as may be necessary to fully present the proposed development activity.

(C) Applicants may seek review of a development proposal prior to making formal application pursuant to subsection (B) of this section. The preliminary review shall be conducted by the Urban Design Administrator ~~Staff~~ to

determine if the minimal requirements for acceptance of the application have been met. The Urban Design Administrator Staff may agree to waive certain requirements set out in subsection (B) of this section if ~~he~~ they determines that such requirements are not necessary for review of the application pursuant to this Chapter Ordinance. An applicant whose proposal has been determined the require nonexpedited approval may seek a preliminary review of his proposal by the Committee.

(D) After determining that an application is complete, ~~Within two working days of receipt of an application determined to be complete,~~ the Urban Design Administrator Staff shall classify the development proposal as either exempt or not exempt, requiring either expedited or nonexpedited approval. The Urban Design Administrator Staff may classify an application as requiring nonexpedited review even if the proposed development activity meets the definition for expedited review if it determines that the application would be more appropriately considered by the Committee.

(E) A permit application classified as requiring expedited approval shall be reviewed by the Urban Design Administrator Director, who shall ~~within three working days after classification,~~ approve the Permit, approve the Permit with conditions, or deny the Permit. An applicant, within ten business days of the date of the decision of the Urban Design Administrator on a proposal requiring expedited review, may request appeal of the application to the Committee. The application shall be reviewed as provided in paragraph (F) of this section for applications classified as requiring nonexpedited approval, except that the

Committee shall consider the application at its next regularly scheduled meeting following the request, provided that such request is made not later than four business days prior to that meeting.

(F) An application classified as requiring nonexpedited approval shall be reviewed by the Committee ~~within eight business days of classification.~~ The Permit application shall be reviewed by the Urban Design Administrator in accordance with the Guidelines and forwarded to the Committee with the Urban Design Administrator's written recommendation to either approve the permit, approve the permit with conditions, or to deny the permit. ~~The applicant shall be sent, by first class mail, written notice of the date, time and location of the meeting of the Committee at which his application shall be considered. Notice of the application and of the date, time and location of the meeting of the Committee shall also be sent by first class mail to the owners of record of every property located within 100 feet of the property which is the subject of the application and to any business associations or neighborhood associations which have requesting in writing to receive such notices.~~

(G) Where an application requiring non-expedited review will also require a Category 3 review as defined by the Land Development Code, provide a forum for the public hearing component of that review in accordance with the following procedures.

(1) Notice for the Category 3 review shall be sent in accordance with the requirements of the Land Development Code.

(2) The Planning Commission shall designate a hearing officer in accordance with that body's Policies and Procedures who shall attend the Committee meeting at which the review will take place.

(3) A staff report outlining the issues involved in the Category 3 review shall be presented by appropriate staff member in the Division of Planning and Design Services in addition to the staff report presented by the Urban Design Administrator.

(4) Final action on the Category 3 review shall be taken at the next regularly scheduled meeting of the Planning Commission or appropriate committee thereof.

(H) Notice. The applicant shall be sent, by first class mail, written notice of the date, time and location of the meeting of the Committee at which his application shall be considered. Notice of the application and of the date, time and location of the meeting of the Committee shall also be sent by first class mail to the owners of record of every first tier property, defined as those properties that touch the property which is the subject of the application at a point, along a border, or across a street, alley or other right-of-way, every property located within 100 feet of the property which is the subject of the application and to any business associations or neighborhood associations which have requesting in writing to receive such notices. The notice shall be sent no later than ten days prior to the date of the meeting. Notice procedures for applications involving a Category 3 component pursuant to paragraph (G) of this section shall be given in

accordance with the notice requirements for Category 3 reviews set forth in the Land Development Code.

(G H) At the meeting scheduled to review the application, the Committee shall first hear a description of the proposed development activity and preliminary comments and a recommendation from the Urban Design Administrator Staff which shall indicate which of the Guidelines apply to the proposed development activity. Following the Urban Design Administrator's Staff presentation, the applicant shall present such information as he chooses for the Committee's consideration. The Committee shall receive written comments or testimony from other parties ~~and at the discretion of the Chairman may permit other parties to testify.~~

(H I) The Committee shall, by majority vote of the members present, make a decision, ~~recommendation to the Director,~~ supported by a written finding of fact, which shall approve the Permit, approve the Permit with conditions, ~~or deny the Permit,~~ or defer consideration of the application until the next meeting of the Committee. Consideration of an application shall not be deferred more than one time. If the Committee defers consideration of an application it shall state the reasons for such deferral. Findings of fact made by the Committee shall be based on the information presented in each application and at each Committee meeting and shall support the Committee's written conclusion.

(I J) The Director shall review all decisions of the Urban Design Administrator and the Committee, and may, within three business days, refer any application back to the Urban Design Administrator or Committee, as

appropriate, if he determines the decision is not adequately supported by findings of fact. The Committee shall consider and render a final decision upon a remanded application at its next regularly scheduled meeting. ~~following the receipt of the recommendation and finding of fact of the Committee shall make a decision to approve the Permit, approve the Permit with conditions, deny the Permit or refer the application to the Committee for further consideration. The decision of the Director shall be supported by a written finding of fact.~~

~~(J K)~~ The Committee, ~~in making its recommendations to the Director, and the Director in his decision-making capacity, and the Urban Design Administrator~~ shall, in their decision-making capacities, ~~each~~ make written findings of fact based upon the information presented in each application and at each Committee meeting which support the written conclusion that the proposed development activity is or is not in compliance with the Guidelines.

~~(K L)~~ If, after an applicant has obtained a Permit, the development proposal is amended, he shall submit the amended development proposal to the Urban Design Administrator, Staff who shall make a determination that the amendment has no significant impact or that the development proposal as amended requires additional review. Review of an amended proposal shall follow the same procedure as provided herein for an original application. Upon a determination by the Urban Design Administrator Staff that the amended proposal requires review, the previously issued Permit shall be suspended pending the review of the amended development proposal.

(M L) Any applicant who is denied a Permit shall have a right of appeal to the Board of Zoning Adjustment. The appeal from the written denial of the Permit shall be taken within 30 days of the date of such written denial.

§ 162.28 PERMIT AGREEMENT.

All work performed pursuant to a Permit shall conform to the Permit and all conditions imposed thereby. It shall be the duty of the Division Department of Inspections, Permits and Licenses or the Department of Public Works and Assets, as appropriate, to inspect from time to time any work performed pursuant to the Permit to assure compliance. In the event work is performed not in accordance with the Permit, the Director of the Department of Inspections, Permits and Licenses or the Director of the Department of Public Works, or their designated representatives or successors, shall issue a stop work order and all work shall cease. No person, firm, or corporation shall undertake any work on the project as long as the stop work order shall continue in effect. No certificate of occupancy shall be issued for any project undertaken pursuant to a Permit unless the work has complied with the conditions established by the Permit.

~~§ 162.29 DESIGN REVIEW GUIDELINES.~~

~~The following design review guidelines shall be the basis for the review of all applications for development activity within the District.~~

(A) ~~Location, height and orientation:~~

~~(1) (a) Structures should be designed to reinforce the existing pattern of small storefronts facing the Corridor;~~

~~(b) Facade design, where appropriate, shall be cognizant of pedestrian activity;~~

~~(c) Display windows shall be encouraged;~~

~~(d) A Structure's main entrance generally should face the Corridor.~~

~~(2) Structures should be located at or near the front property line with the amount of setback designed to be compatible with adjacent properties and traditional neighborhood patterns.~~

~~(3) Development plans should provide side yards wide enough to allow for maintenance of building side walls if common party walls on the lot line are not provided.~~

~~(4) (a) The design of new or substantially remodeled Structures should be generally compatible with the height of existing buildings in a given block and with adjacent residential areas.~~

~~(b) Sight lines of facade heights as seen from the adjacent sidewalk should be generally consistent with those of adjacent buildings.~~

~~(c) Structures greater than three stories high may be permissible if taller portions are set back from the street frontage so that overall sight lines are compatible and if the increased height is not intrusive for adjacent residential areas.~~

~~(B) Historic preservation.~~

~~(1) Changes to the exterior of Contributing Historic Structures and other Structures within the corridor which are more than 50 years old and which have not been significantly altered shall be reviewed in accordance with the standards established for Contributing Historic Structures by the United States Secretary of the Interior, but the Director, in his discretion, may relax these standards in the interest of accomplishing the intentions of these Guidelines.~~

~~(2) The design of new or substantially remodeled Structures which are adjacent to Contributing Historic Structures should be compatible with them and should incorporate design elements of such Structures, where appropriate.~~

~~(3) No application to demolish any Contributing Historical Structure or Structure more than 50 years old shall be approved by the Director unless the applicant demonstrates to the satisfaction of the Director:~~

~~(a) That the rehabilitation of a Structure or construction of a new Structure will have a greater positive impact upon the District's economic vitality and appearance than the preservation of the Structure proposed to be demolished and the rehabilitation of the Structure or the construction of the new Structure would not be possible or economically feasible without the demolition of the Structure proposed to be demolished; or~~

~~(b) That the applicant cannot obtain a reasonable economic return from the property or Structure unless the Contributing Historical Structure or Structure more than 50 years old is demolished in accordance with the application.~~

~~(C) Material/patterns.~~

~~(1) (a) For new or substantially remodeled Structures, exterior brick of a solid uniform color or horizontal lapped siding is encouraged.~~

~~(b) Other exterior materials are appropriate if compatible with existing exterior materials traditionally used within the area.~~

~~(2) (a) Fencing and screening walls should be constructed of materials compatible with the principal Structure.~~

~~(b) Chain link fencing should not be visible from the Corridor.~~

~~(D) Site development, landscaping and open spaces.~~

~~(1) (a) Development proposals should include maintainable, attractive year-round landscaping, street trees or planter boxes along the street frontage of any development site to reinforce the building pattern.~~

~~(b) Development proposals should provide screening to reduce visual impacts on adjacent residential neighborhoods.~~

~~(2) Development Plans, if feasible, should minimize the adverse visual impact of utility lines on the Corridor. Underground lines or service from the alley, where feasible, is encouraged.~~

~~(3) — Pedestrian seating areas are encouraged.~~

~~(E) — Parking areas.~~

~~(1) — The combining of existing small, under-utilized lots to create shared parking areas that are more efficient and more accessible is strongly encouraged.~~

~~(2) — Parking areas generally should be located to the rear of Structures.~~

~~(3) — Parking areas adjacent to the public sidewalk should use landscaping, trees, colonnades or other construction, to maintain the line formed by Structures along the sidewalk.~~

~~(4) — Intensity, location, color and direction of lighting shall be sensitive to nearby residential areas.~~

~~(5) — Adequate perimeter landscaping that screens vehicles, buffers adjacent residential areas, but allows people to feel safe shall be provided.~~

~~(6) — Interior landscaping should include shade trees.~~

~~(7) — The number and width of curb-cuts on the Corridor should be minimized. To promote pedestrian circulation, existing continuous curb-cuts should be reduced to widths necessary for vehicular traffic.~~

~~(F) — Signs. These guidelines are in addition to all provisions of the Land Development Code which also apply.~~

~~(1) The number, type, setback and size of signs should be planned so as not to detract from the District's visual quality nor from the visual quality of the blockface in which the development is located.~~

~~(2) (a) Attached signs are preferred. Attached signage composed of individual letters or symbols is also preferred.~~

~~(b) Projecting signs and free-standing monument signs with a base affixed to the ground which measures at least two-thirds the horizontal length of the sign and has a maximum height of six feet (6'0") are acceptable when consistent with the pattern of business signs in the blockface in which the development is located.~~

~~(c) A freestanding sign mounted on its own support system typically a pole or post is inappropriate for a development with less than 120 feet of frontage on the corridor except where the denial of a free-standing sign would effectively prevent the business from adequately identifying itself. Under these circumstances a free-standing monument sign is preferred.~~

~~(3) (a) Signs should be designed for good graphic communication.~~

~~(b) Signs should be integrated with the design of the Structure or development with which they are associated and with the pattern of business signs in the blockface in which the development is located.~~

~~(4) — (a) — Signs should not be higher than 20 feet nor located above the cornice line of the Structure.~~

~~(b) — Roof top signage is not appropriate.~~

~~(c) — New outdoor advertising signs (billboards) are strongly discouraged; removal of existing billboards is encouraged.~~

~~(5) — The development proposals should provide for the removal of unused signs and supports on the property.~~

~~(6) — (a) — Type, direction and degree of illumination of signs should be of a low intensity, consistent with the project's design and surrounding developments.~~

~~(b) — Internally illuminated signs should have opaque field (background) colors so that only the sign graphics are illuminated.~~

~~(7) — (a) — Traditional awnings on Structures used for commercial purposes are encouraged. No more than 33% of the total square footage of the awning shall be devoted to lettering, logos or other symbols. The color and size shall be appropriate to the design of the Structure and surrounding development.~~

~~(b) — Backlit translucent awnings are discouraged.~~

~~(G) — Public art and amenities.~~

Public art and amenities:

~~(1) — Includes, but is not limited to, that form of sculpture, mural or painting, water element, lighting, or other form of creative expression which is viewable within a development site or upon a Structure.~~

~~(2) Should be designed, executed and supervised by artists or other design professionals.~~

~~(3) Should be integrated with the design of the overall project or development.~~

~~(4) Should aesthetically enhance the urban environment of the District.~~

§ 162.29 ~~30~~ APPLICATION TO PROPERTIES CONTIGUOUS TO DISTRICT.

Pursuant to the Land Development Code, the Board of Zoning Adjustment may attach conditions in addition to those listed in connection with a particular use when granting Conditional Use Permits, if it finds that such conditions are necessary for the protection of surrounding persons, property or neighborhood values. This Metro Council finds that the application of the Guidelines to properties located outside the District but contiguous thereto is necessary to protect the properties and neighborhoods within the District. The Board of Zoning Adjustment is directed to apply the Guidelines to development activities undertaken upon properties contiguous to the District when Conditional Use Permits are required for such development activities. The Board of Zoning Adjustment is authorized to request the Committee to review such requests for Conditional Use Permits and to consider the recommendations of the Committee when establishing the conditions of such Conditional Use Permits.

WATERFRONT REVIEW OVERLAY DISTRICT

§ 162.40 CREATION AND BOUNDARIES.

(A) (1) Pursuant to KRS 82.660 - 82.670, the Waterfront Review Overlay District (the “District”) is created in order to provide additional regulations for design standards and development for the District.

(2) The boundaries of the District shall be as set forth in Appendix A to this chapter.

(3) The distinctive characteristics of the District are as follows: Ambiance of the Louisville Waterfront District is created by a variety of physical characteristics. Protecting and enhancing each characteristic will contribute to the desired image of the District. The most important characteristic in the District is proximity to the river, especially the location of public space along the river’s edge. The District’s proximity to downtown is also unique. The area’s image is enhanced by brick buildings on Main Street. The mix of commercial, residential and park land uses within the District also creates a desirable image. Tree-lined roadways encourage a “parkway” feel for those who travel the area. Concrete, asphalt and water paths connect Waterfront Park in all directions to other districts and neighborhoods. This accessibility to the park is a major component of the District’s character. Harmony between landscape materials and building materials is also important to the image of the District. Signage and other stand-alone features that do not contribute to District ambiance are minimal.

(B) Description of boundaries. The Waterfront Review Overlay (WRO) District, for the purpose of design reviews by the Waterfront Development Corporation, shall be considered to consist of three sub-areas with boundaries, which are incorporated by reference thereto and made a part of this subchapter.

(1) Area A-1: Downtown (CBD) waterfront area. Consistent with the W-1 and C-3 zoning, the intent is to achieve a high degree of public use with parks, hotels, public assembly areas, high density residential areas, and river theme retail commercial uses. The character envisioned is an urban district with hard-edged landscape and streetscape treatment, especially pedestrian oriented for day and night use with continuous public access to the water's edge.

(2) Area A-2: This area provides the potential to expand the downtown waterfront oriented businesses and public uses. Protection of the established character of historic structures and the extension of the established Main Street scale are important. Transition and connection from the CBD to the river for the public, and especially pedestrian movement, are key concepts. Pedestrian and vehicular linkages north and south across River Road are important concerns.

(3) Area B: This area contains Eva Bandman Park which is a community active and passive recreation area and should serve as a transition buffer from the urbanizing waterfront of Areas A-1 and B to the industrial waterfront in C-1. Area B is suited for a mix of public and private uses as permitted with W-2 zoning. Extension of the public assembly and

gathering facilities and river's edge accessibility easterly from Area A-1 is encouraged. A transition from the urban waterfront of A-1 to a mix of developed and natural landscape at the water's edge is expected. Residential use is encouraged with densities variable from high to medium, taking advantage of adjacency to the river and public park land and proximity to the CBD.

(4) Area C-1: The balance of C-1 is primarily zoned W-3 with the intent of providing river-oriented industry a location for operation. Public access to the river's edge is preferred, but it is understood that safety, security or other business needs may make river edge access impractical. The key design issues for the area include the visual relationships of proposed development (height and mass) to River Road, to area C-2 south of River Road, and to vistas from I-64, I-71 and the river. Circulation and access impacts on the proposed River Road Parkway are also important issues. Industrial development proposed within the W-3 area, of the WRO district, shall receive a decreased level of review. Specifically, design criteria relating to the district's image will only apply to the areas visible from River Road and to a lesser degree from the Ohio River. Once it is determined that, by virtue of its "interior" location, a development proposal does not impact the district's image, notice will be given the applicant to proceed.

(5) Area C-2: This area is south of River Road and is expected to have both public and private open space and recreation and uses on

the eastern end, and have the potential for private and public uses on the western side similar to the expectation for Area B. The design issues focus on the I-64, I-71 and River Road corridors, where it is desirable for these to continue to serve as scenic, landscaped approaches to Louisville's CBD from the east. Development will be reviewed with the idea that intensity will diminish from the medium density dominant in Area B to the pastoral, open-space character present at the eastern edge of the Review District.

§ 162.41 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context otherwise requires:

ALTERATION. A change to any part or to the whole of a structure that is not ordinary repairs.

BOARD. The Board of Directors of the Corporation.

BUILDING. Any type of man-made structure, except for temporary structures to be used for special events or emergency situations for a period not to exceed one month.

CORPORATION. The Waterfront Development Corporation.

DEVELOPMENT ACTIVITY. Any alteration, new construction or demolition of a structure, a change in business identification signs, a change in the use of a property, or the construction of public parking or other publicly accessible area.

DISTRICT. The Waterfront Review Overlay District established pursuant to this subchapter; as shown in Appendix A of this chapter.

GUIDELINES. The statement of specific design standards for the Waterfront Review Overlay District set forth in § 162.48;

MAJOR STRUCTURAL CHANGE. Structural alterations and structural repairs made within any 12-month period costing in excess of 50% of the physical value of the structure, as determined by comparison of the extent/value of the alterations involved and the replacement value of the structure at the time the plans for the alteration are approved, using the Building Officials Conference of America (BOCA) chart for construction cost.

NEW CONSTRUCTION. The erection of the whole or any part of a structure.

ORDINARY REPAIRS. Nonstructural reconstruction or renewal of any part of an existing building for the purpose of its maintenance or decoration, which shall include, but not be limited to, the replacement or installation of nonstructural components of the building, such as the roofing, siding, windows, storm windows, insulation, drywall or lath and plaster, or any other replacement, in kind, that does not alter the structural integrity, alter the occupancy or use of the building, substantially alter appearance of the building, or affect by rearrangement, exit-ways and means of egress.

OVERLAY DISTRICT ADMINISTRATOR. The member of the staff of the Corporation delegated the responsibilities under this subchapter by the Board.

WRO PERMIT. An overlay district permit issued by the Corporation pursuant to this subchapter.

§ 162.42 REVIEW OF DEVELOPMENTAL ACTIVITY AND PLANS.

(A) The Waterfront Development Corporation shall review any developmental activity within the waterfront review overlay district as provided in §§ 162.40 through 162.48. The review by the Corporation is limited to the policies and standards established in §§ 162.40 through 162.48 and shall not include any consideration of whether the use is appropriate under the zoning regulations.

(B) The Board shall review all plans for conformity with the design standards established in § 162.48, and, in addition, shall consider whether the developmental activity is compatible with the overall scheme of development for the waterfront area. In making that determination, the Board shall be guided by the following policy statements of basic goals and concepts for the Waterfront Review District:

(1) Unified public spaces. The waterfront and adjacent lands in the district should be planned in a coordinated manner, with connected open-space systems, pedestrian ways, and public activity areas. Landscape concepts and details of materials and construction shall be related to convey a sense of harmony and unity.

(2) Continuity and coordinated private development. Design theme and aesthetic concept should both exhibit a relationship to the

waterfront, and be coordinated with adjacent development. As appropriate, circulation systems should have continuity between parcels.

(3) Public accessibility to river's edge. The Ohio River water's edge should be accessible to the public for view and use throughout the W-1 and W-2 areas, and is preferred, where practicable, in the C-1 portion of the W-3 area.

(4) River's edge treatment. The waterfront is viewed as the city's front door and the face of the community. The quality of its appearance is important. The views from the river, I-71, I-64 and other vantage points are to be considered in design.

(5) River Road Parkway. River Road serves as a main entrance to the city and as an access road to the waterfront. This resource should be developed as a unified visual experience, in the tradition of the city's existing parkway system.

(6) Downtown connection. The Central Business District (CBD) of the city should be tied directly to the waterfront through pedestrian and vehicular connections.

(7) River's edge concept. From the wharf and Belvedere area of the eastern limit of the WRO area the character of the river's edge will change from an urban "hard edged" setting to a natural and naturalized landscape appearance.

(8) River Road Parkway concept. The parkway is viewed as a man-made linear open space serving as a major entry to the city. From

downtown to Zorn Avenue the character is expected to range from an urban tree-lined and lighted boulevard scene, through a transitional multi-use developed setting, to a naturalized open-space appearance.

§ 162.43 PRINCIPLES AND GUIDELINES.

(A) On and after the effective date of this subchapter no person shall make any alteration to a structure or building or undertake new construction as defined in § 162.41 within the District without obtaining a permit issued, without cost, pursuant to the procedures set forth in § 162.46 certifying compliance with the applicable design standards for the district as set forth in § 162.48.

(B) The purpose of the district is to control development within the district in order to:

(1) Protect waterfront property as a valuable asset to the community in terms of quality of life and economic development;

(2) Protect public investment in the waterfront area;

(3) Create a character in the waterfront area that will stimulate private investment within the area;

(4) Enhance and encourage public enjoyment and use of waterfront scenic qualities and river activities;

(5) Encourage high quality development that is attractive to the public and enhances the waterfront's appearance; and

(6) Encourage development that is sensitive to the area's unique environmental qualities.

(C) The establishment of the district shall not be deemed to repeal or in any respect alter the provisions and requirements of the Flood Plain Regulations.

§ 162.44 ADMINISTRATION AND IMPLEMENTATION.

The responsibility for administering and implementing the guidelines is delegated to the Corporation, whose staff and Board shall have the following duties and responsibilities pursuant to this subchapter:

(A) Overlay District Administrator. The duties of the Overlay District Administrator shall be to:

(1) Classify all development activity in accordance with § 162.45 as:

- (a) Exempt;
- (b) Expedited; or
- (c) Nonexpedited.

(2) Coordinate review of permit applications with the Departments of Public Works, Inspections, Permits and Licenses, and other agencies, commissions or boards.

(3) Review expedited development applications;

(4) For expedited development applications, issue a WRO Permit, issue a WRO Permit with conditions, or deny a WRO Permit pursuant to the procedures set forth in § 162.46.

(5) Serve as staff to the Board in its consideration of applications classified as nonexpedited.

(B) The Overlay District Administrator may seek the advice of a body made up of persons possessing professional architectural or urban design expertise for review of applications as he deems necessary.

(C) The Board shall have the following duties and responsibilities with respect to applications for WRO Permits:

(1) Meet with applicants for nonexpedited development projects to review their applications;

(2) For nonexpedited development applications, issue a permit, issue a WRO Permit with conditions, or deny a WRO Permit pursuant to the procedures set forth in § 162.46;

(3) Review decisions of the Overlay District Administrator on expedited development applications upon request of the applicant pursuant to § 162.46;

(4) Recommend to the Metro Council amendments to the guidelines as needed.

(5) The Board shall provide not less than five days written notice to the Butchertown Neighborhood Association (the "Association") of any meeting of the Board where one or more agenda items concerns property located within the boundaries of the Butchertown Neighborhood as defined by the Metro Planning Commission. The association shall designate in writing to the Board the name, mailing address, and telephone or fax numbers of a representative for purposes of receiving notice under this section on behalf of the association.

§ 162.45 EXEMPT ACTIVITIES.

(A) The following development activities shall be exempt from review under the guidelines:

- (1) Ordinary repairs;
- (2) Removal of existing signage without replacement;
- (3) Temporary signage or structures;
- (4) Emergency repairs ordered by a Metro Building Code enforcement official in order to protect health and safety;
- (5) Alterations or major structural change only to the interior of a structure, unless visible from outside building; and
- (6) Demolition of an accessory structure, including but not limited to unconnected garages or storage sheds, billboards, fences or retaining walls.

(B) All development activity within the District, except for exempt activities described in subsection (A) shall be classified as either requiring expedited or nonexpedited review under the guidelines, as follows:

- (1) The following development activities shall be subject to expedited review:
 - (a) Landscaping;
 - (b) Sidewalk or street paving, lighting, streetscape furnishings, and banners;
 - (c) Signage; and

(d) Exterior alterations which are not major structural changes.

(2) The following development activities shall be subject to nonexpedited review:

- (a) New construction;
- (b) Major structural change;
- (c) Parking facility development or redevelopment; and
- (d) Demolition of a non-accessory structure.

§ 162.46 PERMIT REQUIREMENTS AND APPEAL.

(A) It shall be a condition precedent to obtaining any permit for any development activity within the District that the person has obtained a WRO Permit pursuant to this section. A WRO Permit shall be issued only where it is determined, pursuant to the procedures established by this subchapter, that the proposed development activity is in compliance with the guidelines.

(B) No permit or certificate of occupancy shall be issued by any Metro Agency for any development activity within the District unless a WRO Permit for such development activity has been obtained pursuant to this subchapter.

(C) An application for a development activity within the District shall be submitted to the Corporation on a form established by the Overlay District Administrator. The application shall include at least the following information, unless waived pursuant to subsection (D):

(1) A site plan, drawn to an appropriate scale, photographs or other presentation media showing the proposed development in the context of property lines, adjacent structures, streets, sidewalks, etc.;

(2) Plans, elevations and other drawings, drawn to appropriate scale, as may be necessary to fully explain all proposed structures or alterations to structures; and

(3) Details or urban design elements, off-street parking, landscaping, fencing or walls, signage, streetscape and other aspects as may be necessary to fully present the proposed development.

(D) Applicants may seek review of a development proposal prior to making formal application pursuant to subsection (C). The preliminary review shall be conducted by the Overlay District Administrator to determine if the minimal requirements for acceptance of the application have been met. The Overlay District Administrator may agree to waive certain of the requirements set out in subsection (C) if he or she determines that such requirements are not necessary for review of the application pursuant to this subchapter.

(E) The Overlay District Administrator shall classify the development proposal as either exempt, or not exempt, requiring either expedited or nonexpedited approval.

(F) A WRO Permit application classified as requiring expedited approval shall be reviewed by the Overlay District Administrator who shall, after review of the application, prepare a written decision which shall approve the WRO Permit, approve the WRO Permit with conditions, or deny the WRO Permit.

An applicant, within five days of receipt of the decision of the Overlay District Administrator on a proposal requiring expedited review, may request appeal of the application to the Board. The application shall be reviewed as provided in subsection (G) for applications classified as requiring non-expedited approval, except that the Board shall consider the application at its next regularly scheduled meeting following the request, provided that such request is made not later than seven working days prior to the meeting.

(G) A WRO Permit application classified as requiring a non-expedited approval shall be reviewed by the Board. The permit application shall be reviewed by the Overlay District Administrator in accordance with the guidelines and forwarded to the Board with the Overlay District Administrator's written recommendation to either approve the WRO Permit, approve the WRO Permit with conditions, or deny the WRO Permit.

(H) The applicant shall be sent, by first-class mail, written notice of the date, time and location of the meeting of the Board at which his or her application shall be considered. The notice shall be sent no later than ten days prior to the date of the meeting, unless such notice is waived by the applicant.

(I) At the meeting scheduled to consider the applicant's WRO Permit request, the Board shall consider recommendations of the Overlay District Administrator and such other information as the applicant chooses to present for the Board's consideration.

(J) The Board, by majority vote of the members present, shall prepare a written decision which shall approve the WRO Permit, approve the WRO

Permit with conditions, deny the WRO Permit, or defer consideration of the application until the next meeting of the Board.

(K) If, after an applicant has obtained a WRO Permit, the development proposal is amended, he or she shall submit the amended development proposal to the Overlay District Administrator who shall make a determination that the amendment has no significant impact or that the development proposal as amended requires additional review. Review of an amended proposal shall follow the same procedure as provided herein for an original application. Upon a determination by the Overlay District Administrator that the amended proposal requires review, the previously issued WRO Permit shall be suspended pending the review of the amended development proposal.

(L) Any applicant who is denied a WRO Permit shall have a right of appeal to the Jefferson Circuit Court.

§ 162.47 PERMIT AGREEMENT.

The filing of an application to obtain a WRO Permit pursuant to this subchapter shall constitute an agreement by the applicant that he or she will undertake the development activity in conformity with the plans approved by the WRO Permit and that he or she will abide by any conditions imposed by a conditional approval of the WRO Permit. All conditions imposed by a WRO Permit shall be binding on the applicant, his or her successors, heirs or assigns, unless otherwise amended or released by the Board or Overlay District Administrator.

§ 162.48 DESIGN GUIDELINES.

(A) The Waterfront Development Corporation, in interpreting the design standards established by this subchapter shall consider the following design principles:

(1) Functional requirements. A design shall meet the basic criteria for satisfying its program. Relationships between parking and buildings, for example, shall meet accepted standards of design for engineering and accessibility.

(2) Systems relationships and continuity. The project shall be integrated into other projects and planned systems, such as pedestrian ways, landscaping patterns, lighting concepts, and traffic movements.

(3) Visual relationships and continuity. The way one sees the project in relation to its context is important. Such considerations as the view from the road, from the river, or from other vantage points such as from above, in vista or panorama, at day or night, or in different seasons may be of consequence.

(4) Aesthetic and symbolic meaning. The style and form should relate a project to the historic setting or to the unique qualities of its city waterfront location.

(5) Architectural and landscape composition. Scale, form, and materials are the basic elements of building and site design. The relationships between buildings and the relationship between projects and their settings are significant. A project should be expressive of

contemporary thinking in design. Questions of style should be focused on relationships of form and material rather than replication of historic architectural periods.

(6) Pedestrian activity and scale. The quality of experience for the individual or for groups in varying activities is of great importance. Land use, architectural design, landscape design and public art combine at the human scale to contribute to quality places for people.

(B) The following general standards shall apply in the WRO District.

(1) Views:

(a) Maintaining and improving views of the river is desired. Structures should be designed to allow views of the river from adjacent streets; massing and placement of buildings should maximize a cone of vision that includes a view of the riverfront and does not obscure the view from other developments.

(b) Treatment of river edges should be visually appealing from the river vantage point as well as from the shore.

(2) Landscape and grading:

(a) Continuity of landscape concept and harmony between development parcels is expected.

(b) Design concept, materials selection, and detailing of public spaces should have a harmony and unity expressive of an overall scheme. In the absence of a detailed “master” site plan, the

Corporation shall look for overall continuity and theme among projects.

(c) The filling of land for development purposes shall consider the scenic quality of the parkway and the river's edge. Fill operations are to be set-back from the landscape buffer area, graded with side slopes, and varied in contour as needed to present a "naturalized contour." Continuity between adjacent parcels is important.

(d) Maintaining the natural character and contours of grade of the existing river bank, within the designated setback, is encouraged, especially in Areas B and C-1.

(e) Surface areas used for parking should be landscaped or fenced to partially screen such areas from view from access streets, freeways, adjacent properties, and from the waterfront. Parking structures should include perimeter landscaping. Berms (in combination with plantings or low walls) screening parking are appropriate and desired, with variations in contours achieving either a natural or cultivated appearance as best relates to the land use it adjoins.

(f) When the top level of parking structures is used for parking and is readily seen from public streets or residential or hotel structures, rooftop landscape treatment shall be reviewed for its design quality.

(g) In highly visible surface parking lots, use of alternative surfaces such as paving blocks or “grass-crete” is encouraged.

(h) Where landscaping is selected for screening purposes, the seasonal density and buffering capabilities of selected plant material shall be reviewed. Seasonal variety of color and form should be an important consideration in the choice of materials for aesthetic intent.

(3) Circulation (pedestrian and vehicular):

(a) Pedestrian systems and street crossings that encourage trips on foot, particularly from the downtown to the waterfront area, should be provided.

(b) The quality of the sidewalk environment should be enhanced by means of appropriate landscaping, lighting, graphics, street furniture, and design; concrete paving in compliance with the CBD sidewalk standards, or finish material such as brick or stone pavers, should be provided.

(c) Internal pedestrian circulation systems should coordinate with the parkway plans and river's edge plans and standards for walks, bikeways, jogging trails, and other movement systems or patterns.

(d) Parking lots, storage areas and similar uses should be located away from the river's edge and on unobtrusive sites. In areas characterized by buildings along the street line, parking lots

should be located behind or on the side of buildings, whenever possible.

(e) Designated public pedestrian access ways between River Road and the river's edge should be encouraged.

(f) The public river walkway should be continued along the river's edge in Areas A-1 and B. Its design should be sensitive to the character of the surrounding waterfront development.

(g) The pedestrian systems (walks, jogging trails) and bicycle paths should be developed along the parkway and in accordance with plans for River Road.

(h) Public transit service, through access to TARC routes, should be provided and should include shelters and waiting areas for appropriate group sizes, in public and private developments.

(4) Building design, materials, and colors:

(a) The use of unfinished common concrete block, cinder block, or corrugated panel as the main facing material for exterior walls is discouraged.

(b) Construction should be of quality finish materials such as brick, stone masonry, and architectural concrete and should be in harmony with the surrounding character of the waterfront development.

(c) Simulated materials such as vinyl and aluminum siding should be avoided.

(d) Predominant exterior colors should be of natural materials or those that are complimentary and harmonious to the character of the surrounding waterfront development.

(e) Bright colors should not dominate but may be permitted as a compatible accent.

(f) Large areas of blank walls (including parking garage frontage) should be avoided. Pedestrian and active-use areas at street level are encouraged. Special treatment with screening, landscaping, and the like, is desired where such conditions are unavoidable.

(g) When the first or street level of a structure is used for parking, storage, or is a vacant area, appropriate treatment of masonry, finish material, screening, or landscaping should be provided to minimize unsightliness.

(h) Mechanical equipment or utility equipment located on the exterior of a building should be appropriately screened from public view or designed as an integral part of the overall exterior appearances the building facade.

(i) Service areas, refuse collection areas, storage areas, and loading docks should be located away from or screened from public view.

(5) Preservation of historic structures and sites:

(a) Projects which provide for adaptive reuse of historic buildings and sites eligible for the National Register of Historic Places shall be favorably reviewed.

(b) All buildings are recognized as products of their own time. Contemporary design is encouraged except where such design would clearly detract from the design compatibility within a group of historically significant structures. Alterations, additions, and new developments should be sympathetic to and harmonious with the historic context, and not seek to mimic an earlier style.

(c) The distinguishing original qualities of a property should not be diminished through alteration or removal of distinctive architectural features. When replacing original material, new material should closely match the original in composition, design, color, texture, and other visual qualities.

(d) If cobblestones are located within the proposed development, they are to be collected and either reincorporated into the project's design or given to the city. Cobblestones are considered historical artifacts and are the property of the city.

(6) Lighting:

(a) Lighting fixtures in publicly accessible areas should be decorative and similar to or compatible with the Victorian fixtures installed downtown. In Areas A-1 and B, light color should be the same as that used at the wharf.

(b) Exterior lighting should enhance the site and building design.

(c) Specialized lighting is permitted to accent landscape features.

(d) Lighting should be restrained to prevent excessive brightness and undue glare on adjacent properties and the river.

(e) Lighting levels and color shall be designed in consideration of the overall effect on patterns, repetition, focal points, and rhythm within the panorama of the waterfront.

(7) Utilities:

(a) All utility services (telephone, electrical, cable, and the like) shall be installed underground.

(b) Utility components required to be above ground (transformers, meters, and the like) shall either be screened by landscaping or decorative wall or located away from public view.

(8) Retaining walls, fencing and railing:

(a) Retaining walls should be faced with masonry or other decorative screening or landscaping to minimize the blank appearance of such walls.

(b) Fence and rail design should be compatible with the surrounding character of the waterfront development.

(c) Proposed fencing should not limit actual or visual access to the waterfront, except where necessary for safety or

security. Fencing material visible from publicly accessible areas should compliment surrounding architectural materials; chain link fencing is inappropriate in these areas.

(d) When determined that screening is necessary, fencing, if used as screening, shall be solid, and shall include vegetation. Landscaping used for screening shall form a complete year-round opaque screen.

(9) Flood plain:

(a) A flood control system shall be integrated within the development's design. Physical and visual barriers to the waterfront are discouraged.

(b) The design of lower levels, exposed to flood elevations, shall be integrated with the structure so it will not be unsightly or unrelated to either the habitable portion of the building or the surrounding landscape.

(10) Signage:

(a) Signs should be designed to enhance the area's visual appeal and ability to attract the public. The size, height, number and design of signs shall be reviewed for their ability to achieve these goals as well as their impact on traffic safety.

(b) In general, attached signs should be designed to fit within the architectural space intended for signage and not cover architectural features.

(c) Signs seen in relation to other signs should be designed to be compatible in location, shape, style, graphics, size, material, illumination, and color. Uniformity should be maintained in certain characteristics while other characteristics should be varied to permit individual expression and identification.

(d) Outdoor advertising signs (billboards), pennants, streamers and temporary signs are not appropriate in the Waterfront area except for special events, building openings, and the like which shall be subject to expedited review under § 162.45(B)(1).

(C) The following standards shall apply only within the WRO sub-areas:

(1) Standards specific to Areas A-1 and A-2:

(a) Strong access connections between Main Street and the waterfront should be maintained.

(b) The urban grid of streets and sidewalks should be extended into the areas in a logical and appropriate manner to achieve a physical and perceptual relationship between the CBD and the waterfront.

(c) Individual buildings and structures should be situated in relation to the existing urban grid and historic context.

(2) Standards specific to Area B: Dock construction should be developed to meet recreational needs, with floating docks using support

masts designed as an integral part of the overall appearance. Covered slips should not be permitted for the typical boat slips.

(3) Standards specific to Area C-1:

(a) Landscape and/or siting shall screen industrial and other uses from River Road and the river's view.

(b) Chain link fence may be used for security reasons but shall be sufficiently landscaped where visible from public areas and the river.

(D) The Corporation, or any body to which it has delegated responsibility for technical reviews of development plans under this subchapter may adopt additional standards consistent with the policies and standards established herein for the purpose of interpreting and supplementing the policies and standards established by this subchapter.

§ 162.98 SEVERABILITY.

If any provision of this chapter as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 162.99 PENALTY.

(A) It shall be unlawful for any person to conduct any development activity within an overlay district in violation of the provisions of this chapter or

contrary to the requirements and conditions set forth in any overlay district permit issued pursuant to this chapter.

(B) A person who violates any provision of this Chapter shall be subject to civil penalties of not less than \$100 and not more than \$1000. Each day a violation continues after due notice has been served of the violation shall constitute a separate offense.

(C) Any person cited for violation of the provisions of this Chapter may pay the minimum civil penalty within seven days from the date of issuance or request a hearing regarding such citation and penalty before the Code Enforcement Board ("Board") in accordance with §§ 32.275 et. seq. If the person fails to respond to the citation within seven days as referenced above, the person shall be deemed to have waived the right to a hearing. In this event, the Board shall enter a final order determining that the violation was committed and impose the maximum civil penalty set forth in the citation.

(D) The Metro Government shall possess a lien on the property of the person committing the violation for all fines, penalties, charges and fees imposed pursuant to paragraphs A and B above. The lien shall be superior to and have priority over all other subsequent liens on the property except state, county, School Board and Metro Government taxes. ~~Violation of any provision of this chapter shall be enforced by the remedies set out in § 10.99.~~

APPENDIX A: BOUNDARIES OF THE WATERFRONT REVIEW OVERLAY DISTRICT

**APPENDIX B: INTERIM BARDSTOWN ROAD/BAXTER AVENUE
CORRIDOR REVIEW OVERLAY DISTRICT BOUNDARIES, DISTINCTIVE
CHARACTERISTICS AND DESIGN REVIEW GUIDELINES**

The following design review guidelines shall be the basis for the review of all applications for development activity within the District:

(1) Location, height and orientation:

(a) Structures should be designed to reinforce the existing pattern of small storefronts facing the Corridor;

(b) Facade design, where appropriate, shall be cognizant of pedestrian activity;

(c) Display windows shall be encouraged;

(d) A Structure's main entrance generally should face the Corridor.

(2) Structures should be located at or near the front property line with the amount of setback designed to be compatible with adjacent properties and traditional neighborhood patterns.

(3) Development plans should provide side yards wide enough to allow for maintenance of building side walls if common party walls on the lot line are not provided.

(4) (a) The design of new or substantially remodeled Structures should be generally compatible with the height of existing buildings in a given block and with adjacent residential areas.

(b) Sight lines of facade heights as seen from the adjacent sidewalk should be generally consistent with those of adjacent buildings.

(c) Structures greater than three stories high may be permissible if taller portions are set back from the street frontage so that overall sight lines are compatible and if the increased height is not intrusive for adjacent residential areas.

(B) Material/patterns.

(1) (a) For new or substantially remodeled Structures, exterior brick of a solid uniform color or horizontal lapped siding is encouraged.

(b) Other exterior materials are appropriate if compatible with existing exterior materials traditionally used within the area.

(2) (a) Fencing and screening walls should be constructed of materials compatible with the principal Structure.

(b) Chain link fencing should not be visible from the Corridor.

(C) Site development, landscaping and open spaces.

(1) (a) Development proposals should include maintainable, attractive year-round landscaping, street trees or planter boxes along the street frontage of any development site to reinforce the building pattern.

(b) Development proposals should provide screening to reduce visual impacts on adjacent residential neighborhoods.

(2) Development Plans, if feasible, should minimize the adverse visual impact of utility lines on the Corridor. Underground lines or service from the alley, where feasible, is encouraged.

(3) Pedestrian seating areas are encouraged.

(D) Parking areas.

(1) The combining of existing small, under-utilized lots to create shared parking areas that are more efficient and more accessible is strongly encouraged.

(2) Parking areas generally should be located to the rear of Structures.

(3) Parking areas adjacent to the public sidewalk should use landscaping, trees, colonnades or other construction, to maintain the line formed by Structures along the sidewalk.

(4) Intensity, location, color and direction of lighting shall be sensitive to nearby residential areas.

(5) Adequate perimeter landscaping that screens vehicles, buffers adjacent residential areas, but allows people to feel safe shall be provided.

(6) Interior landscaping should include shade trees.

(7) The number and width of curb-cuts on the Corridor should be minimized. To promote pedestrian circulation, existing continuous curb-cuts should be reduced to widths necessary for vehicular traffic.

(E) Signs. These guidelines are in addition to all provisions of the Land Development Code which also apply.

(1) The number, type, setback and size of signs should be planned so as not to detract from the District's visual quality nor from the visual quality of the blockface in which the development is located.

(2) (a) Attached signs are preferred. Attached signage composed of individual letters or symbols is also preferred.

(b) Projecting signs and free-standing monument signs with a base affixed to the ground which measures at least two-thirds the horizontal length of the sign and has a maximum height of six feet (6'0") are acceptable when consistent with the pattern of business signs in the blockface in which the development is located.

(c) A freestanding sign mounted on its own support system typically a pole or post is inappropriate for a development with less than 120 feet of frontage on the corridor except where the denial of a free-standing sign would effectively prevent the business from adequately identifying itself. Under these circumstances a free-standing monument sign is preferred.

(3) (a) Signs should be designed for good graphic communication.

(b) Signs should be integrated with the design of the Structure or development with which they are associated and with

the pattern of business signs in the blockface in which the development is located.

(4) (a) Signs should not be higher than 20 feet nor located above the cornice line of the Structure.

(b) Roof top signage is not appropriate.

(c) New outdoor advertising signs (billboards) are strongly discouraged; removal of existing billboards is encouraged.

(5) The development proposals should provide for the removal of unused signs and supports on the property.

(6) (a) Type, direction and degree of illumination of signs should be of a low intensity, consistent with the project's design and surrounding developments.

(b) Internally illuminated signs should have opaque field (background) colors so that only the sign graphics are illuminated.

(7) (a) Traditional awnings on Structures used for commercial purposes are encouraged. No more than 33% of the total square footage of the awning shall be devoted to lettering, logos or other symbols. The color and size shall be appropriate to the design of the Structure and surrounding development.

(b) Backlit translucent awnings are discouraged.

(F) Public art and amenities.

Public art and amenities:

(1) Includes, but is not limited to, that form of sculpture, mural or painting, water element, lighting, or other form of creative expression which is viewable within a development site or upon a Structure.

(2) Should be designed, executed and supervised by artists or other design professionals.

(3) Should be integrated with the design of the overall project or development.

(4) Should aesthetically enhance the urban environment of the District.

SECTION II: This Ordinance shall take effect upon its passage and approval.

Kathleen J. Herron
Metro Council Clerk

Rick Blackwell
President of the Council

Jerry E. Abramson
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Irv Maze
Jefferson County Attorney

BY: _____